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EXAMINER

RAHMJOO, MANUCHER

ART UNIT PAPER NUMBER

2676

DATE MAILED: 02/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/615,026

Applicant(s)

PHILLIPS ET AL.

Examiner

Mike Rahmjoo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, and 3- 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Harvard Graphics.

As per claim 1, 12, and 19- 22 Harvard Graphics teaches plurality of data points on page 11-33, wherein each of the data points include projections in the bar chart and the chart represents measurements of x vs. y which show actual and projected values in different intensities (also discussed on 11- 42, 43 where the series are in color or grayscale); and the display characteristic of each data point is a function of the measure of the statistical significance of the estimated statistic included in said data point wherein height is one of the display characteristics which is a function of the measure of the statistical significance in the actual or the projected sales on page 11- 33; and a computer readable medium storing a computer executable process on page 2- 2.

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As per claim 3, Harvard Graphics teaches data points are displayed in a bar graph that includes a separate bar for each asset shown one per actual bar of the year on the chart of page 11- 33.

As per claim 4, Harvard Graphics teaches each said bar is displayed at an intensity level that is a function of the measure of statistical significance of the measure of the tendency of the value of the asset corresponding to said bar to change on the chart of page 11- 33 wherein each bar of the actual and projected sales have different intensities (also discussed on 11- 42, 43 where the series are in color or grayscale).

As per claim 5, Harvard Graphics teaches a height of each said bar is a second function of the measure of the tendency of the value of the asset to change as a result of a change in the data value for the exogenous variable as per discussion of claim 1 and on the chart of page 11- 33 wherein the heights change.

As per claim 6, Harvard Graphics teaches the estimated statistic was estimated using a regression equation, and wherein the measure of statistical significance is a p value that was calculated from the regression equation on page 11- 44 wherein four types of regression (linear, exponential, logarithmic, and power curves) are used.

As per claim 7, Harvard Graphics teaches the function is linear on page 11- 36.

As per claim 8, Harvard Graphics teaches the function is non-linear on page 11- 36(log scale).

As per claim 9 and 18, Harvard Graphics teaches each said data point is displayed as a bar in a bar graph on page 11- 33 where each bar represents the sales of one particular year.

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As per claim 10, Harvard Graphics teaches statistical significance is an estimate of a probability that an actual value for said estimated statistic is outside of a specified confidence interval around an estimated value for said estimated statistic on page 11- 33 where the projected sales and the actual sales fall outside of each other by some margin which in this case is in units of millions of dollars.

As per claim 11, Harvard Graphics teaches calculation of the intensity for each said data point comprises determining 1 minus said estimate of probability (also discussed on 11- 42, 43 where the series are in color or grayscale).

As per claim 13, Harvard Graphics teaches display characteristic is a size of said each data point where on page 11- 33 each bar has different size as per projected or actual sales values.

As per claim 14- 17, Harvard Graphics teaches hue, saturation, brightness and color characteristics on pages 11- 42, 43 and 7- 17 where the series are in color or grayscale.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harvard Graphics.

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As per claim 2, Harvard Graphics teaches the data point changes for different years that includes an identification and a measure of the tendency of an asset on the chart of page 11- 33.

However, it does not explicitly teach a measure of a tendency of a value of the asset to change as a result of a change in a data value for an exogenous variable.

It teaches the actual and projected sales as assets.

It would be obvious to one of ordinary in the art that the projected sales encamps many variables e.g. exogenous that contribute to the projections made.

### ***Response to Arguments***

Applicant's arguments filed 12/27/2002 have been fully considered but they are not persuasive.

Examiner respectfully disagrees.

Applicant (on page 2, and 3rd paragraph) argues limitations that are not claimed in claims 1,12, and 19-22.

On the 4<sup>th</sup> paragraph of page 3 and 1<sup>st</sup> paragraph of page 5, applicant argues that Harvard Graphics does not disclose at least the feature of displaying a graph for plurality of data points where a display characteristic of each such data point is a function of the measure of statistical significance of the estimated statistic included in such data point.

Harvard Graphics teaches the display characteristic of each data point (plurality of sales values for each distinct and individual one of the actual and projected sales and each individual year 1986- 1990) is a function of the measure of the statistical significance of the estimated

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statistic included in said data point wherein height is one of the display characteristics which is a function of the measure of the statistical significance in the actual or the projected sales on page 11- 33 and as shown on the data table wherein the measure (readings in millions of dollars projected on the y axis) of statistical significance is shown as plurality of bar graph presentations for the displayed values.

On the 1<sup>st</sup> paragraph of page 5, applicant argues that Harvard Graphics does not disclose the feature of displaying each data point at an intensity level that is a function of the measure of statistical significance of the estimated statistic that is included in said data point.

Harvard Graphics teaches the display characteristic of EACH data point (actual and projected) at an intensity level (for example, the intensity level can correspond to the height of the data points corresponding to their respective values) is a function of the measure of the statistical significance in the data table of page 11-33.

The claim merely discloses displaying at an intensity level without any detail of how the intensity level is a function of the measured statistical significance. The examiner suggests clarifying how the intensity level is a function of the measured statistical significance.

On the 3rd paragraph of page 5, applicant argues that Harvard Graphics does not disclose the feature of an identification of an asset and a measure of a tendency of a value of the asset to change as a result of a change in a data value for an exogenous variable.

Harvard Graphics teaches the data point changes for sales of Victory Sport-shoe for different years on the chart of page 11- 33.

However, it does not explicitly teach a measure of a tendency of a value of the asset to change as a result of a change in a data value for an exogenous variable.

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The term projection is defined in the Merriam- Webster's Collegiate Dictionary, 10<sup>th</sup> edition as "estimate of future possibilities based on current trend " and exogenous is defined as "caused by factors or an agent from outside the organism or system". Harvard Graphics teaches projected sales which implicitly means the same as changes in the value based on exogenous variables.

It would have been obvious to one of ordinary in the art at the time the invention was made to incorporate any given exogenous variables into the teachings of Harvard Graphics to contribute to the sales projections made therein and therefore result into a measure of a tendency of a value of the asset to fluctuate.

On the second paragraph of page 6, applicant argues that Harvard Graphics merely shows a separate bar for each year during the covered period of time. As per teachings of Harvard Graphics on the chart of page 11- 33 assets (the two projected and actual) are categorized on yearly basis with each asset being displayed through a different bar. By the contents of the claims it is not clear to the examiner if different assets are discussed. In case different assets are discussed further clarification is required.

The arguments of claims 4 and 5 on page 7 are similar to the arguments of claims 1 and 3.

As per argument of claim 6 on 1<sup>st</sup> paragraph of page 8, applicant argues Harvard Graphics says nothing about the information included within the individual data points themselves.



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In reply, the examiner notes claim 6 does not recite anything related to individual data points. Claim 6 recites using "p value" but the "p value" was not defined in the claims. The p value can correspond to any value.

*Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Mike Rahmjoo

January 27, 2003

  
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